

Remarks

Claims 1-11, 13-15, and 18-27 are pending and stand rejected after final. Applicants assert that the currently pending claims are in condition for allowance after final as set forth more fully below. Accordingly, Applicants respectfully request reconsideration of the rejections based on the following remarks.

There have been no amendments and therefore, there can be no new issues requiring further search and consideration. Therefore, Applicants request that either the finality of the current rejections be withdrawn or a Notice of Allowance be provided.

Telephone Interview

The undersigned and the Examiner participated in a telephone interview on February 22, 2005. It was discussed how the Clancy reference is inadequate relative to subject matter of the present set of claims. In particular it was discussed that Clancy is interested in enhancing telephone network signals to compensate for line noise and is not relevant to ambient noise at the telephones. It was further discussed that an off state as disclosed in Clancy cannot be considered one option for controlling speaker volume based on ambient noise because, in addition to Clancy not being relevant with respect to ambient noise, the off state of Clancy fails to compensate based on anything and each of the options as recited in the claims, unlike an off state, controls volume based on ambient noise.

102 Rejections

Claims 26 and 27 stand rejected under 35 USC 102 as being unpatentable over Clancy, US Pat 5,802,164. Applicants respectfully disagree.

First, these claims recite providing to a user of a communications device at least two different options for controlling the speaker volume based on ambient noise. Nothing in Clancy is based on ambient noise. To the contrary, Clancy is based on compensation for line noise within a telecommunication network. Clancy discloses that the circuitry is located in a switch or other suitable network element and does not disclose that the circuitry in any way has the ability to sample or otherwise detect ambient noise where the telephone is located.

Second, these claims recite receiving a selection of one of at least two different options from the user. Clancy fails to disclose receiving such a selection from a user. Instead, Clancy states that enhancement may be enabled or disabled for a given ANI or DN. There is no disclosure of a user being given any two options, but instead it is presumed that enhancement is turned on or off for a given ANI or DN for an unknown reason. It cannot be assumed that a user is provided a selection to turn on or off enhancement.

Third, Clancy fails to disclose that the user is provided with at least two options for controlling the speaker volume based on ambient noise. The Office Action states that on and off are two different options. However, “off” is not an option to control volume based on ambient noise or based on anything else for that matter. When set to off, there is no basis for control. As recited in claim 26, the two options for controlling volume are both based on ambient noise such that there is some form of control based on ambient noise for either option.

For at least each of these reasons, separately and collectively, claim 26 is allowable over Clancy. Claim 27 depends from an allowable base claims and is also allowable for at least the same reasons.

Additionally, claim 27 recites additional features patentable over Clancy. Claim 27 recites that one of the two options is a one time sample to automatically adjust volume one time for a call. Thus, the volume is adjusted once and set for the call and is not changed. The Office Action states that Clancy discloses an option to use a capability to end signal enhancement at any point of the telephone call. However, there is no disclosure where a user selects an option and there is a single sample used to make a single adjustment for a call. The enhancement is either on or off within the switch for a given DN or ANI, and enhancement may be switched on or off based on the switch encountering a call boundary as opposed to based on an option selected by a user.

103 Rejections

Claims 1-11, 13-15, and 19-25 stand rejected under 35 USC 103(a) through various combinations of references. Claims 1-5 and 7-9 are rejected based on Clancy in view of Alperovich (US Pat 6,298,247). Claim 6 is rejected based on Alperovich in view of Yamashita (US Pat 5,615,256) and well known prior art. Claims 11-15 are rejected

based on Alperovich in view of well known prior art and Clancy. Claims 10, 16, and 25 are rejected based on Alperovich in view of Kanai (US Pat 6,233,462). Claims 18, 19, and 21-24 are rejected based on Alperovich in view of Yamashita and Clancy. Applicants respectfully traverse these rejections.

Claims 11 and 13-15

The Office Action rejected claim 11 by stating that Alperovich disclosed all of the elements except resetting the volume to an initial level upon the call ending and before establishment of a subsequent call. However, the Office Action states that Clancy discloses that automatic volume control is reset to zero gain at the end of a call such that it would be obvious to combine Clancy with Alperovich to render claim 11 unpatentable.

Claim 11 recites resetting the volume to the initial volume level. This pertains to the volume of a speaker of a particular communications device. Clancy pertains to the volume of a given channel through a switch and is not linked to any one particular communication device. Furthermore, Clancy deals with enhancement circuitry within a switch or other similarly situated network component and is not concerned with volume control within a particular communications device and is also not concerned with ambient noise at the communications device. Therefore, one of skill in the art of ambient noise reduction through volume control would not be motivated to combine Clancy with Alperovich because Alperovich is concerned with circuitry of the phone itself while Clancy is concerned with circuitry of a switch in a network.

Dependent claims 13-15 depend from an allowable claim 11 and are also allowable for at least the same reasons.

Claims 18-25

The Office Action rejected claim 18 by stating that Alperovich in view of Yamashita discloses all of the elements except means for receiving user input to activate and deactivate the means for adjusting independently of powering on and off the mobile communications device. However, it states that Clancy discloses the capability to disable automatic volume function as controlled by the user. Applicants respectfully traverse these rejections.

Claim 18 is directed to a mobile communications device and recites means for receiving user input to activate and deactivate the means for adjusting independently of powering on and off the mobile communications device. Thus, the mobile communications device itself has the means for receiving the user input to activate and deactivate. Clancy fails to disclose this element. Initially, Clancy discloses that the enhancement may be turned on and off as a function of or in response to an ANI or DN number. It does not disclose that the user is provided with a means of selecting whether to activate or deactivate the volume control. It cannot be assumed that a user is given any means for selecting to activate or deactivate when all that is disclosed is that enhancement is either on or off for a given ANI or DN. Furthermore, Clancy discloses that the enhancement circuitry and the bit for on and off is within a switch or other similarly situated network element. Clancy does not disclose that any means for activation or deactivation, whether based on user input or not, is included in one of the telephones. Thus, Clancy fails altogether to disclose the means for receiving user input to activate or deactivate that is a part of a mobile communications device. Furthermore, because Clancy is not concerned with circuitry of a telephone or other end user communications device and because Clancy is not concerned with ambient noise, one of skill in the art would not be motivated to combine Clancy with Alperovich.

Dependent claims 18-24 depend from an allowable claim 18 and are also allowable for at least the same reasons.

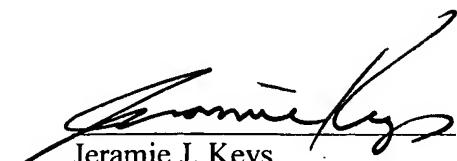
Conclusion

Applicants assert that the application including claims 1-11, 13-15, and 18-27 is in condition for allowance after final. Applicants request reconsideration in view of the amendments and remarks above and further request that a Notice of Allowability be provided. Should the Examiner have any questions, please contact the undersigned.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

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